

Attachment A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED

MAY 12 2021

U.S. DISTRICT COURT
ELKINS WV 26241

William Alva
Hemming
Your full name

FEDERAL CIVIL RIGHTS
COMPLAINT
(BIVENS ACTION)

v.

Civil Action No.: 5:21cv71
(To be assigned by the Clerk of Court)

Bailey Mazonne Blalock

C.O. = B. Hawerd
C.O. = J. Kish
C.O. = C. Benette

Hazleton FCI, Dr. Myers' phisology
Enter above the full name of defendant(s) in this action

I. JURISDICTION

This is a civil action brought pursuant to **Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)**. The Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§ 1331 and 2201.

II. PARTIES

In Item A below, place your full name, inmate number, place of detention, and complete mailing address in the space provided.

A. Name of Plaintiff: William A. Hemming Inmate No.: 72664-054
Address: Federal Correctional Institution
P.O. Box 1000 OTISVILLE, NY 10963

In Item B below, place the full name of each defendant, his or her official position, place of employment, and address in the space provided.

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B. Name of Defendant: B. Haward
 Position: Correction officer
 Place of Employment: Hazleton FCI
 Address: P.O. Box 5000 Bruceston
Mills W.V. 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Defendant's
were acting as federal Correction
officers at all relevant times

B.1 Name of Defendant: T. Kish
 Position: Correction officer
 Place of Employment: Hazleton FCI
 Address: P.O. Box 5000 Bruceston Mills
W.V. 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Defendants
were acting as federal
Correction officers at all
relevant times

B.2 Name of Defendant: C. Benette
 Position: Correction officer
 Place of Employment: Hazleton FCI
 Address: P.O. Box 5000 Bruceston Mills
W.V. 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

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If your answer is "YES," briefly explain: Defendants
were acting as federal
correction officers at all
relevant times

B.3 Name of Defendant: Dr. Myers
Position: physiology
Place of Employment: Hazleton FCI
Address: P.O. Box 5000 Brocton Mills
W.V., 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Defendant was
acting as FCI "physiology"

B.4 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

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B.5 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

III. PLACE OF PRESENT CONFINEMENT

Name of Prison/ Institution: OTISVILLE FCI

A. Is this where the events concerning your complaint took place?
☐ Yes ☒ No

If you answered "NO," where did the events occur?

Hazleton FCI, W.V.

B. Is there a prisoner grievance procedure in the institution where the events occurred? ☒ Yes ☒ No

C. Did you file a grievance concerning the facts relating to this complaint in the prisoner grievance procedure?
☐ Yes ☒ No

D. If your answer is "NO," explain why not: I Asked for Bp. 8, and Bp. 9, But was never given. I was told to write an appeal of which I gave to the Captain, A Warden and warden

E. If your answer is "YES," identify the administrative grievance procedure number(s) in which the claims raised in this complaint were addressed

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and state the result at level one, level two, and level three. **ATTACH GRIEVANCES AND RESPONSES:**

LEVEL 1 _____

LEVEL 2 _____

LEVEL 3 _____

IV. **PREVIOUS LAWSUITS AND ADMINISTRATIVE REMEDIES**

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? ☐ Yes ☒ No

B. If your answer is "YES", describe each lawsuit in the space below. If there is more than one lawsuit, describe additional lawsuits using the same format on a separate piece of paper which you should attach and label: "TV PREVIOUS LAWSUITS"

1. Parties to this previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court: _____
(If federal court, name the district; if state court, name the county)

3. Case Number: _____

4. Basic Claim Made/Issues Raised: _____

5. Name of Judge(s) to whom case was assigned: _____

6. Disposition: _____
(For example, was the case dismissed? Appealed? Pending?)

7. Approximate date of filing lawsuit: _____

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8. Approximate date of disposition. Attach Copies: _____

C. Did you seek informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part B?

☐ Yes ☐ No

D. If your answer is "YES," briefly describe how relief was sought and the result. If your answer is "NO," explain why administrative relief was not sought.

E. Did you exhaust available administrative remedies?

☐ Yes ☐ No

F. If your answer is "YES," briefly explain the steps taken and attach proof of exhaustion. If your answer is "NO," briefly explain why administrative remedies were not exhausted.

G. If you are requesting to proceed in this action *in forma pauperis* under 28 U.S.C. § 1915, list each civil action or appeal you filed in any court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using the same format on a separate sheet of paper which you should attach and label "G. PREVIOUSLY DISMISSED ACTIONS OR APPEALS"

1. Parties to previous lawsuit:

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Plaintiff(s): _____

Defendant(s): _____

2. Name and location of court and case number:

_____3. Grounds for dismissal: ☐ frivolous ☐ malicious
☐ failure to state a claim upon which relief may be granted

4. Approximate date of filing lawsuit: _____

5. Approximate date of disposition: _____

V. STATEMENT OF CLAIM

State here, as **BRIEFLY** as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. **You must include allegations of specific wrongful conduct as to EACH and EVERY defendant in the complaint.** Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, you must number and set forth each claim in a separate paragraph. **UNRELATED CLAIMS MUST BE RAISED IN SEPARATE COMPLAINTS WITH ADDITIONAL FILING FEES. NO MORE THAN FIVE (5) TYPED OR TEN (10) NEATLY PRINTED PAGES MAY BE ATTACHED TO THIS COMPLAINT. (LR PL 3.4.4)**

CLAIMS 1 THROUGH 4

EXCESSIVE FORCE, BATTERY, CRUEL AND UNUSUAL PUNISHMENT:

CLAIM 1: On February 5 2020, Officer
B. Howard punched me 3 times on the
lower area and slammed my forehead into
concrete corners busting open my right eye bleed
coming it to bleed. Flooded my cell coming me to be
beat by cell inmate Cummings

Supporting Facts: I was forced to check into

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protectiv Castade P.C. Because of
officer's B. Howard and officer J. Kish.
I got ~~a~~ shot from having to protect
my face from punches, on 2-5-2020

CLAIM 2: On or about March, 9, 2020
officer J. Kish, threw me into
the small Metal Shower, as hard as He
could with my hands cuffed behind my
Back, Making me hit the side wall and
caused my arm to Bruise to the extreme
Supporting Facts: ^{over one} I messed up ^{there} my arm and
~~my~~ X Rays of torn rotator cuff in
Shoulder.

CLAIM 3: On or about April 4 2020
officer C. Benette while in a cell
rotation put all my stuff in shower
and sprayed with water. put me in shower after
He pushed me against the wall and punched me
in the liver area. Threw me around and slapped me
Then Threw me again and punched me again and ^{all} ^{the} ^{time}
Supporting Facts: my legs got from under me. and kept ^{as} ^{they} ^{me}
I have witnesses! officer Benette
also took my Bible away from me.

CLAIM 4: On or about April 15 2020
officer C. Benette saw me and my cellie
trying to get a Book under my door but
could not. C. Benette had us removed from
cell and put me and cellie in paper. When he
took me back he threw my paper blanket
in shower and pushed me into shower. As I
tried to get up he kicked me in the back
Supporting Facts: with hands cuffed behind back.

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DELIBERATE INDIFFERENCE TO MY SERIOUS MEDICAL NEEDS:
CLAIM 5: ON or about April 7 2020
Dr Myers from Spiscology TOOK
my Bypolar medication from me,
because I she did not agree with diagnosis.
I Been diagnosed Bypolar by several
Doctors over the past 20 years.
Supporting Facts:

VI. INJURY

Describe **BRIEFLY** and **SPECIFICALLY** how you have been injured and the exact nature of your damages.

I am having many problems and much
pain with my shoulder from the
assault by J. Kish, no matter what I
do it hurts. It will not stop. It has
been hurting from the day he pushed me
into the shower with my hands cuffed
behind my back. "Continued on page 15A"

VII. RELIEF

State **BRIEFLY** and **EXACTLY** what you want the Court to do for you. Make
no legal arguments. Cite no cases or statutes. APPOINT COUNSEL TO PURSUE
Some type of Compensation for Mental,
emotional, spiritual and physical pain.
For the officers to undergo New
Training, To Become Real "Correctional"
officers

15.A

Page 15.A

The pain is something that is now permanent, I have Emotional and mental pain as well, Every time I here Keys it makes me very Dumpy. Every time an officer Knocks on my door it makes me Think of all that I went through.

I am also still having problems with my Back, from have been Kicked By officer C. Benette

I have never in my life had any thing wrong with my Shoulder or my Back, until I have been assaulted By officer's J. Kish and officer's C. Benette.

I some times wake in the middle of the night, do to the pain in my Shoulder.

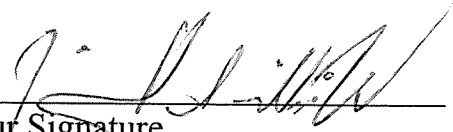
I am have been Trubel with my mental state do to the fact That "Dr Myers" at Hazelton FCI took my Depect away from me, Its what I've been taken for almost 20 years for Bypoler. I only spoke to her for nody 10 minates Two times,

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DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at OTISVILLE ^{FCT} on 5.3.2021
(Location) (Date)


Your Signature

Attachment E

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

William A. Hemming

Your full name

v.

Civil Action No.: _____

C.O. = B. Howard

C.O. = J. Kish

C.O. = C. Benette

Hazleton FCI, Dr. Myers, Phisology
Enter above the full name of defendant(s) in this action

Certificate of Service

I, William A. Hemming (your name here), appearing *pro se*, hereby certify that I have served the foregoing FEDERAL CIVIL RIGHTS COMPLAINT (title of document being sent) upon the defendant(s) by depositing true copies of the same in the United States mail, postage prepaid, upon the following counsel of record for the defendant(s) on 5-4-21 (insert date here):

(List name and address of counsel for defendant(s))

(sign your name)